

REMARKS

Claims 1-32 are currently pending, although claims 18-25 and 31 have been withdrawn from consideration. Upon indication of allowable subject matter, Applicants intend to seek appropriate rejoinder of withdrawn claims pursuant to MPEP 821.04.

The Office Action rejected claims 1-17, 26-30 and 32 under 35 U.S.C. §103 as obvious over U.S. patent 6,123,952 ("Lagrange") in view of PCT patent application publication no. WO 99/31081 ("Clark"). In view of the following comments, Applicants respectfully request reconsideration and withdrawal of this rejection.

Lagrange states that his compositions contain only thermally irreversible photochromic compounds which are diarylethene derivatives, not naphthopyran compounds. Thus, Lagrange discloses very structurally different dye compounds. For at least this reason, Lagrange cannot teach or suggest the claimed composition.

Furthermore, Clark and Lagrange are not properly combinable. Clark's dyes are pH sensitive, and change color upon change in pH. In contrast, Lagrange's compositions are pH static -- they do not change pH. One skilled in the art, seeking to use Clark's pH-sensitive dyes, would not seek to place them in a pH-static environment like Lagrange's compositions where they would be unable to fulfill their purpose (changing color upon pH change). To make such a substitution would render Clark's dyes unsuitable for their intended purpose. See MPEP § 2143.01. Thus, rather than suggest the claimed invention, these references actually teach away from it. Under such circumstances, Clark and Lagrange are not properly combinable, and cannot form the basis for a rejection under 35 U.S.C. §103.

For at least this reason, Applicants respectfully submit that the §103 rejection should be reconsidered and withdrawn.

Furthermore, with respect to dependent claims 12-15 and 32, Clark neither teaches nor suggests dissolving the required dye in the oily phase, the specific oils required by the dependent claims, or any of the benefits associated with combining the required dyes with the required oils. Rather, Clark teaches away from such dissolution, stating that his dyes are incorporated into polymeric materials, (see, page 5, 2nd and 3rd paragraphs), so Clark cannot teach or suggest the claimed combination of required dyes and required oils, or any benefits associated from such combinations. As demonstrated by the examples in the present application (see, for example, examples 6-12), the specified combination of oils and dyes results in significant color properties of cosmetic compositions thus formed, results which are neither taught nor suggested by the applied art. Stated another way, the applied art would not have led one skilled in the art to prepare the claimed compositions with the reasonable expectation that significant color properties would result, particularly given the express teaching in Clark that pH change is necessary for his dyes to function according to his disclosure.

For these reasons as well, Applicants respectfully submit that the §103 rejection is inapplicable to claims 12-15 and 32.

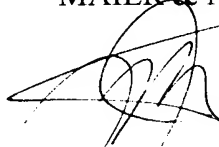
For all of the above reasons, Applicants respectfully request reconsideration and withdrawal of the §103 rejection.

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Response to Office Action dated October 19, 2007

Applicants believe that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

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